

**Article 5. Railroad Accident Prevention and Immediate Deployment (RAPID) Force****§66263.50. Fee Requirements.**

(a) The fees collected pursuant to this section shall be deposited in the Hazardous Spill Prevention Account in the Railroad Accident Prevention and Response Fund.

(b) Surface transporters, for purposes of this section, means any railroad as defined under Section 229 of the Public Utilities Code which is subject to regulation under Section 421 of the Public Utilities Code and which transports hazardous materials; any motor carrier as defined in Section 508 of the Vehicle Code which is licensed or required to be licensed to transport hazardous materials pursuant to Section 32000.5 of the Vehicle Code; and, any motor carriers registered or required to be registered pursuant to Section 25163 of the Health and Safety Code.

(c) Hazardous material means any of the following:

(1) A hazardous material as defined in Section 172 of Title 49 of the Code of Federal Regulations.

(2) A hazardous material as defined in Section 25501 of the Health and Safety Code, including but not limited to, "hazardous materials" as defined in Section 1160.3 of Title 13 of the California Code of Regulations and "hazardous materials" as defined in Section 2402.7 of the Vehicle Code.

(d) Fees due under this section shall be paid each fiscal year by surface transporters who transport on California highways pursuant to Section (h) or by railroad lines pursuant to Section (k). The fees are due and payable to the Board of Equalization on December 31 of the State fiscal year beginning with 1992/93, or on such later date as notified by the Board of Equalization. The fees imposed by this regulation shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(e) The total fees to be collected each fiscal year, under this section, shall be the amount appropriated by the Legislature for expenditure, plus an amount sufficient to maintain a two month reserve, less the fund balance carried over from the prior fiscal year. The reserve shall equal one-sixth of the total appropriation.

(f) The Department shall allocate the total amount to be collected each year equally between types of surface transporters, except that, to the extent practicable, any amounts which are attributable solely to one mode shall be allocated only to that mode.

(g) The Department shall determine the fee for each motor carrier by dividing the motor carriers' allocation of the total fees to be collected pursuant to subsection (f) by the number of motor carrier companies subject to the fee pursuant to subsection (h).

(h) A motor carrier is liable for the fees to be collected under these regulations if on July 1 of the fiscal year in which the fee is due, it possessed or was required to possess a hazardous materials transportation license or a hazardous waste registration.

(i) The total fees paid by all ICC Class I railroads which transport hazardous materials shall be 99.4 percent of the amount allocated to all railroads in subsection (f).

(j) The fee for each ICC Class I railroad shall be determined by applying the percentage rate applicable to each ICC Class I railroad in the most recent fee structure set for railroads by the PUC under Section 421 of the Public Utilities Code, to the total amount of fees to be collected from all ICC Class I railroads as determined in subsection (i).

(k) A railroad is liable for the fees due under these regulations if on July 1 of the fiscal year in which the fee is due it was regulated by the PUC and has transported a hazardous material during the preceding twelve months.

(1) Individual Interstate Commerce Commission (ICC) Class I railroads which transport hazardous materials within California may develop a schedule for allocating the fees to be collected from ICC Class I railroads among all ICC Class I railroads which transport hazardous materials and submit that schedule to the Department by June 30 of each year. The Department may grant an extension of the June 30 submission date if a written request is provided giving justification for the extension.

The schedule must clearly allocate the total amount to be collected from all ICC Class I railroads which transport hazardous materials to each railroad by assigning a percentage of the total to each railroad. The Department will adopt the schedule developed by the ICC Class I railroads and waive the schedule for ICC Class I railroads developed by the PUC under Section 421 of the Public Utilities Code, provided that all ICC Class I railroads agree to the proposed schedule and certify their agreement to the Department in writing through a letter which has been signed by representatives of all ICC Class I railroads.

(m) The fee for each ICC Class II and ICC Class III railroad which transports hazardous materials shall be the greater of .115 percent of gross revenues generated in California or \$250. Each railroad's gross revenues shall be from their most recent fiscal year which ended prior to July 1 of the State's fiscal year (July 1 through June 30) in which the fees are due.

(n) Class II and Class III railroads may also develop a schedule of rates using the same procedure described in subsection (1).

(o) Acceptance of materials or services from individual railroads and motor carriers in lieu of paying part or all of the fees assessed shall be based upon the Department's judgement of its budget needs and the market value of the materials or services offered. The Department will inform the Board of Equalization of the amount, if any, to be credited against any railroad or motor carrier's account.

(p) Federal, state, county, city, city and county agencies, and other political subdivisions of the State, including but not limited to, school, irrigation and fire protection districts are exempt from the fees set forth in this section.

NOTE: Authority cited: Sections 7713 and 7714.5, Public Utilities Code. Reference: Sections 25163 and 25501, Health and Safety Code, Section 229 and 421, Public Utilities Code; Section 2402.7 and 32000.5, Vehicle Code;

Section 1160.3, Title 13 CCR; 49 CFR Section 171.8, 49.

HISTORY

1. New article heading and section filed 11-20-92 as an emergency; operative 11-20-92 (Register 92, No. 47). No Certificate of Compliance is required. Pursuant to the provisions of Public Utilities Code section 7713, this emergency regulation shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the Secretary of the California Environmental Protection Agency.
2. Change without regulatory effect amending subsection (m) filed 1-11-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 3).
3. New section refiled 3-30-93 as an emergency (Register 93, No. 14). No Certificate of Compliance is required, pursuant to the provisions of Public Utilities Code section 7713.
4. New section refiled 7-26-93 as an emergency; operative 7-26-93 (Register 93, No. 31). No Certificate of Compliance is required, pursuant to the provisions of Public Utilities Code section 7713.
5. Editorial correction amending History 1, 3 and 4 (Register 93, No. 48).